

No. 9/3/87-6 Lab./3568.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947) the Governor of Haryana is pleased to publish the following award of Presiding Officer, Labour Court, Faridabad, in respect of the dispute between the workman and the management of M/s Sikands Ltd., 61, N.I.T., Faridabad :—

IN THE COURT OF SHRI A. S. CHALIA, PRESIDING OFFICER, LABOUR COURT,  
FARIDABAD

Reference No. 269 of 1986

between

SHRI PADAM SINGH, WORKMAN AND THE RESPONDENT-MANAGEMENT OF  
M/S SIKANDS LTD., 61, N.I.T. FARIDABAD

Present :

Workman in person.

Shri R. C. Sharma for the respondent.

#### AWARD

This reference under section 10(1)(c) of Industrial Disputes Act, 1947 (Act No. 14 of 1947) as amended from time to time and latest by Act No. 49 of 1984 (hereinafter referred as the said Act) was made to this Court by the State of Haryana (Department of Labour),—*vide* its endorsement No. ID/FD/93-86/27895—900, dated 4th August, 1986, to adjudicate upon the dispute of service matter covered by Second Schedule under section 7 of the said Act, arisen between Shri Padam Singh, workman and the respondent-management of M/s Sikands Ltd., 61, N.I.T., Faridabad. Accordingly it has been registered as Reference No. 269 of 1986.

2. It has been stated by the workman that he has settled the matter in dispute with the respondent photostat copy of settlement is Ex. W-1. According to this settlement the management has reinstated the workman with half backwages. Now there is no dispute with the management. To this effect statements of both the parties have been recorded.

In view of the statements of both the parties, the award is given that the matter in dispute has been settled between the parties.

Dated the 12th May, 1987.

A. S. CHALIA,  
Presiding Officer,  
Labour Court, Faridabad.

Endst. No. 953, dated the 15th May, 1987.

Forwarded (four copies), to the Commissioner and Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act.

A. S. CHALIA,  
Presiding Officer,  
Labour Court, Faridabad.

The 22nd June, 1987

No. 9/4/87-6Lab/3571.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Industrial Tribunal, Faridabad, in respect of the dispute between the workman and the management of M/s National Council for Cement and Building Material Mathura Road, Ballabgarh :—

BEFORE SHRI S. B. AHUJA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,  
HARYANA, FARIDABAD

Reference No. 217 / 1986

between

SHRI LAKHMI SON OF SHRI TEK CHAND, C/O SHRI DARSHAN SINGH, GENERAL  
SECRETARY, AITUC, FARIDABAD INDUSTRIAL WORKERS UNION, MARKET NO. 1,  
N.I.T. FARIDABAD AND THE MANAGEMENT OF M/S NATIONAL COUNCIL FOR  
CEMENT AND BUILDING MATERIAL, MATHURA ROAD, BALLABGARH,

Present:

Shri Darshan Singh, A. R. for the workman.

Shri C. M. Lal, A. R. for the management.

## AWARD

1. In exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947, the Governor of Haryana referred the following dispute between the Shri Lakshmi workman and the management of M/s National Council for Cement and Building Material, Mathura Road, Ballabgarh, to this Tribunal, for adjudication :—

Whether the termination of service of Shri Lakshmi is justified and in order ? If not, to what relief is he entitled ?

2. Notices of the reference were sent to the parties who appeared.

3. The Petitioner's case is that he was appointed as Mali in March, 1983, but the respondent illegally terminated his service on 21st August, 1986 without any reason. He prayed for reinstatement with full back wages and continuity of service.

4. The respondent contested the case of the petitioner. It was *inter alia* pleaded that the Government of Haryana is not the 'Appropriate Government' within the meaning of section 2 (a) of the Industrial Disputes Act, 1947 vis-a-vis, the Management Institute and this Tribunal has no jurisdiction to entertain and adjudicate upon the present reference. It is not necessary to reproduce the other pleas taken in the written statement because the reference is being disposed of otherwise than on merits.

5. On the pleadings of the parties, the following preliminary issue was settled :—

(1) Whether the Government of Haryana is not a Appropriate Government to make the reference in this case ? OPR

6. The Management produced on record copy of award dated 8th March, 1983 passed by Shri M. C. Bhardwaj, the then Presiding Officer, Industrial Tribunal, Haryana, Faridabad wherein he had held that Central Government was the 'appropriate Government' for Cement Industries *qua* the Management of M/s Cement Research Institute of India, Ballabgarh. Ex. M-2 is the copy of award dated 17th December, 1981 passed by Shri Hari Singh Kaushik, Presiding Officer, Labour Court to the same effect. Ex. M-3 is the copy of Cement Control Order, 1967 and Ex. M-4 is the copy of Cement Control (Third amendment) Order, 1982. Ex. M-5 is the copy of memorandum issued by the Under Secretary to Government of India, Ministry of Industry and Company Affairs, which shows that Cement Research Institute of India which is under the administrative control of Central Government has been redesignated as National Council for Cement and Building Material. Ex. M-6 is the copy of notification of 8th November, 1977 which shows that by notification under sub-clause (i) of clause (a) of Section-2 of the Industrial Disputes Act, 1947, the Central Government has specified, for the purposes of that sub-clause, the controlled industry engaged in the manufacture or production of cement, which has been declared as controlled industry under Section 2 of the Industries Development and Regulation Act, 1951 (65 of 1951). Besides this Ex. M-7 is the copy of Memorandum of Association of the Society viz National Council for Cement and Building Material.

6. The workman has not adduced any evidence.

7. I have heard Shri Darshan Singh Authorised Representative for the workman and Shri C. M. Lal, Authorised Representative for the respondent Management and perused the record on the file.

8. The learned authorised Representative for the Management contended that for the purposes of this case the appropriate Government under Section 2 (a) (i) of the Industrial Disputes Act, 1947 was the Central Government as Management institute was covered under Cement Industry i. e. Controlled industry. There is ample merit in his contention.

Section 2 (a) (i) of the Industrial Disputes Act, 1947 states :—

(a) Appropriate Government means—

“(1) in relation to any Industrial Disputes concerning any industry carried on by or under the authority of the Central Government or by a railway Company or concerning any such controlled industry as may be specified in this behalf by the Central Government × × ×  
× × × the Central Government, and.”

9. In order that Central Government may be 'Appropriate Government' in relation to controlled industry, two requirements are to be satisfied viz (i) industry should be a 'controlled industry', and (ii) it should have been specified in this behalf i. e. for the purpose of Section 2 (a) (i) of the Industrial Disputes Act, 1947. Both these requirements are fulfilled in this case. An industry engaged in the manufacture or production of Cement and gypsum products is controlled industry under the First Schedule to the Industries Development and Regulation Act, 1981. Besides this said industry has also been specified as controlled industry for the purposes of Section 2 (a) (i) of the Industrial Disputes Act, 1947 by the Central Government,—vide notification Ex. M-6 of November, 1977.

10. Shri Darshan Singh learned Authorised Representative of the workmen cited the case of *Paritosh Kumar Pal versus State of Bihar and others*, 1984 Lab. I. C. 1254 (Patna High Court) and urged that situs of the employment of the workman would determine Tribunal's jurisdiction. This ruling is not applicable to the facts of this case. Besides this, he cited the case of *Marine Diesel Engine Project, Dhurwa, Ranchi versus State of Bihar and others*, 1981 Lab. I. C. Page, 1370, *Vinod Rao versus Presiding Officer, 1st Labour Court, Ahmedabad and others* 1980-Lab. I. C. 1191 and *Bihar Khadi Gamadyog Sangh Muzaffarpur versus State of Bihar and others*, 1977 Lab. I.C. page 466 and urged that the employee was employed within the jurisdiction of Haryana and as such, Haryana Government is the appropriate Government. The authorities cited by him have no bearing to determine controversy in this case.

11. Hence I come to the conclusion that Central Government is the 'appropriate Government' for the cement industry vis-a-vis the respondent management institute. Therefore, I hold that this Tribunal has no jurisdiction to deal with the present reference. That apart Cement Research Institute of India which has now been redesignated as National Council for Cement and Building Material is under the administrative control of the Government of India as is apparent from the memorandum Ex. M-5 dated 18th June, 1985. The workman may seek his remedy by moving appropriate Government. Therefore, the reference is bad on above ground and I pass the award accordingly.

S. B. AHUJA,

Dated the 28th April, 1987.

Presiding Officer,

Industrial Tribunal, Haryana,  
Faridabad.

Endorsement No. 484, dated the 30th April, 1987.

Forwarded (four copies) to the Financial Commissioner and Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

S. B. AHUJA,

Presiding Officer,

Industrial Tribunal, Haryana,  
Faridabad.

The 3rd June, 1987

No. 9/1/87-6Lab./3584.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Labour Court, Ambala, in respect of the dispute between the workman and the management of M/s Technocrates Ltd., 233, Industrial Area, Panchkula (Ambala) :—

IN THE COURT OF SHRI V. P. CHAUDHARY, PRESIDING OFFICER, LABOUR COURT.

AMBALA

Misc. Reference No. 107 of 1985

New Misc. No. 2 of 1987

between

SHRI DHARAM PAUL, S/O SHRI RAM LAL SAINI, VILLAGE KUNDI, P. O. PANCHKULA  
(AMBALA) AND THE MANAGEMENT OF THE MESSRS TECHNOCRATES LTD.,  
233, INDUSTRIAL AREA, PANCHKULA (AMBALA)

Present :—

Shri Abhey Singh, for workman.

Shri R. L. Chopra, for respondent.

## AWARD

The Hon'ble Governor of Haryana in the exercise of its powers conferred,—*vide* clause (c) of sub-section (i) of section 10 of Industrial Disputes Act, 1947 referred dispute between Shri Dharam Pal and Messrs Technocrates Ltd., 233, Industrial Area, Panchkula, to this Court. The terms of the reference are as under :—

Whether the termination of services of Shri Dharam Pal is just and correct, if not, to what relief is he entitled ?

Workman alleged that he joined service of respondent-management as a Turner and served the respondent for one year and one month. His services were terminated on 28th January, 1985 by oral order in violation of provisions of section 25(F) of Industrial Disputes Act, 1947. He prayed for his reinstatement with continuity in service and with full back wages.

Respondent-management contested the dispute and contended that workman Dharam Pal left the job of the respondent-management of his own on receipt of full and final payment. He never completed the service of 240 days of respondent-management. He actually worked for 26 days in June, 1984 for 28 days in July, 1984, for 26 days in August, 1984 for 17 days in September, 1984, for 31 days in October, 1984, for 29 days in November, 1984, for 30 days in December, 1984 and for 28 days in January, 1985. So it was prayed that the claim application of the workman is wrong and baseless.

On the pleadings of the parties the following issues were framed :—

## Issues

- (1) Whether termination order, dated 28th January, 1985 [is justified if not its effect ? OPM
- (2) Whether workman had not completed service of 240 days, if so, whether provisions of section 25(F) of Industrial Disputes Act, 1947 is not attracted, if so, its effect ? OPM
- (3) Relief.

I have heard Shri Abhey Singh for workman and Shri R. L. Chopra for respondent-management and have perused the oral and documentary evidence placed on the file. My issue-wise findings are as under :—

Issue Nos. 1 and 2 :—

Issue No. 1 and 2 both are inter linked with each other so these issues are taken up together for discussions and their findings.

Management examined Shri Madhukar Gupta as MW-1 who deposed that the firm Messrs Technocrates is being looked after by his wife. Workman was in their employment. He joined service of respondent on 4th June, 1984 and left the job on 28th January, 1985. He further deposed that their firm used to work in time shift arrangement due to power shortage. Workman refused to work at night, so he took his full and final payment,—*vide* voucher Ex. M-1 and M-2 and left his job of his own.

Shri Madhukar Gupta again deposed that in June, 1984 workman worked for 26 days, in July, 1984 for 28 days, in August, 1984 for 26 days, in September, 1984 for 17 days and October, 1984 for 31 days, in November, 1984 for 29 days, in December, 1984 for 30 days and in January, 1985 for 28 days thus workman never completed his service of 240 days in the employment of respondent-management.

Shri Dharam Pal, workman appeared as AW-1 he deposed that he worked in the employment of respondent for one year as a Turner used to get Rs. 550 per month he was terminated on 28th January, 1985. At the time of termination no notice was issued to him no pay, in lieu of notice period and no retrenchment compensation was ever paid to him by the respondent-management. He further deposed that respondent-management used to take overtime from him when he refused to work for over time in those circumstances management felt annoyed and terminated his services.

In view of the above evidence I am of the considered view that from Ex. M-1 photostat copy of the voucher dated 28th January, 1985 coupled with the statement of MW-1 Shri Madhukar Gupta. It is evident that Dharam Pal entered into full and final settlement with the respondent and received Rs. 412.90 towards his full and final settlement with the respondent-management. Voucher slip which is Ex. M-2 this shows that Dharam Pal left the job of the respondent of his own.

From the statement of Madhukar Gupta which is based on Attendance Register it is clearly established that workman Dharam Pal never completed service of 240 days, so there was no necessity of complying with the provisions of section 25 (F) of Industrial Disputes Act, 1947.

Case of the workman is that management wanted to take overtime from him he refused to oblige the management while the case of the management is that their firm used to work on shift arrangement basis. Workman was not ready to work at night shift. Due to that fact he left his job of his own on receipt of full and final payment which is from the Ex. M-1.

In these circumstances it is proved to the hilt that workman left job of his own on receipt of his full and final payment. Since he had not completed service of 240 days even if management terminated his services in those circumstances, there was no necessity of compliance of provisions of section 25 (F) of Industrial Disputes Act, 1947, so both these issues are decided, in favour of, management against the workman.

Issue No. 3 :—

For the foregoing reasons on the basis of my issues-wise findings. I hold that termination of workman is justified because workman left his job out of his free will, he was never terminated, so I pass award regarding the dispute between the parties accordingly.

V. P. CHAUDHARY,

Presiding Officer,  
Labour Court, Ambala.

Dated the 10th April, 1987.

Endst. No. 815, dated the 10th April, 1987.

Forwarded (four copies), to the Financial Commissioner & Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

V. P. CHAUDHARY.

Presiding Officer,  
Labour Court, Ambala.

The 22nd June, 1987

No. 9/4/87-6Lab./3625.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Industrial Tribunal, Faridabad, in respect of the dispute between the workman and the management of M/s. Haryana State Federation of Consumers Co-operative Wholesale Store Ltd., (Confed), Chandigarh:—

BEFORE SHRI S. B. AHUJA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL, HARYANA,  
FARIDABAD

Reference No. 244/1983.

between

SHRI MUKHI RAM WORKMAN S/O SHRI SADA RAM, VILLAGE SAMALKHA, P. O. BIJANA, DISTRICT KARNAL AND THE MANAGEMENT OF M/S HARYANA STATE FEDERATION OF CONSUMERS CO-OPERATIVE WHOLESALE STORES LTD., (CONFED) CHANDIGARH.

*Present*

Shri O.P. Daryal, A.R. for the workman.

None for the Management.

#### AWARD

In exercise of the powers conferred by clause (d) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947, the Governor of Haryana, referred the following dispute between Shri Mukhi Ram workman and the management of M/s. Haryana State Federation of Consumers Co-operative Wholesale Stores Ltd., (Confed), Chandigarh, to this Tribunal, for adjudication.—

Whether the termination of services of Shri. Mukhi Ram is justified and in order ? If not, to what relief is he entitled ?

2. Notices were issued to the parties who appeared. The case of the petitioner is that he was appointed as Clerk with the respondent-management on 23rd April, 1979. He had been performing his duties satisfactorily, but the respondent terminated his services on 1st September, 1982. He challenged his termination on the ground that said termination order is in flagrant disregard of the provision of Section 25-E of the Industrial Disputes Act, 1947 (hereinafter referred to as the Act). He prayed for reinstatement with all back wages.

3. The respondent filed written statement and controverted the claim of the petitioner. It was pleaded that this Tribunal has no jurisdiction to decide this reference in view of the provisions of section 102 of the Haryana Co-operative Societies Act, 1984 and that the Confed was not an industry. On merits, it was admitted that the workman was appointed on purely temporary *ad hoc* basis on 13th April, 1979 and his services have been terminated in accordance with terms and conditions of the appointment letter.

4. On the pleading of the parties, the following issues were settled by my predecessor Shri R. N. Batra, the then Presiding Officer:—

- (1) Whether the Industrial Tribunal has no jurisdiction to try the present reference as pleaded? OPM
- (2) Whether the Confed is not an industry? OPM
- (3) Whether the termination of service of Shri Mukhi Ram was justified and in order? If not, to what relief is he entitled? OPM

5. The Management did not appear and as such *ex parte* proceedings were ordered against it. The workman came into witness box in support of his case as WW-1. I have heard Shri O. P. Daryal learned Authorised Representative for the workman. My findings on the aforesaid issues are as under:—

**Issue No. 1.**

6. This issue has already been answered against management by detailed order dated 24th April, 1985 passed by Shri R. N. Batra, then Presiding Officer, Industrial Tribunal, Haryana.

**Issue No. 2.**

7. The term 'industry' has been given an embracing definition in historic judgement revised by Supreme Court in case Bangalore Water Supply and Sewerage Board *Vs.* Rajappa and others 1978 Lab. I. C. page 467. The respondent Confed is covered in description of the industry as defined in Section 2(j) of the Act. The issue is answered against the respondent Confed.

**Issue No. 3.**

8. The workman has come in witness box in support of his case. Mukhi workman was appointed on 23th April, 1979,—*vide* appointment letter Ex. W-1 on temporary and *ad hoc* basis in the scale of Rs. 110-210 plus usual allowances. His appointment was for a period of six months. He continued to work. His services were terminated on 12th March, 1980,—*vide* order Ex. W-4 but that order was subsequently cancelled on 30th April, 1970,—*vide* order Ex. W-5. He worked continuously and his services were ultimately terminated on 15th September, 1982 as per order Ex. W-2 on the record. Thus it is evident that the claimant has been in continuous service for more than one year under the employer. His services could not be terminated without complying with mandatory provisions of section 25F of the Act because termination of his service clearly amounts to retrenchment as defined in Section 2 (oo) of the Act. Admittedly no notice or notice pay in lieu thereof was given to the workman before passing impugned order of termination. He was not even paid any retrenchment compensation. The termination of his services is in flagrant disregard of the provisions of Section 25F of the Act which renders termination order illegal and void *ab initio*. Accordingly the impugned termination Order is set aside and as such the workman is entitled to reinstatement with full back wages. The reference is answered accordingly with no order as to cost.

Dated, the 6th April, 1987.

S. B. AHUJA,  
Presiding Officer,  
Industrial Tribunal, Haryana,  
Faridabad.

Endst. No. 479, dated the 30th April, 1987.

Forwarded (four copies) to the Financial Commissioner and Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

S. B. AHUJA,

Presiding Officer,  
Industrial Tribunal, Haryana,  
Faridabad.

No. 9/4/87-6Lab./3626.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Industrial Tribunal, Faridabad, in respect of the dispute between the workman and the management of M/s Haryana Roadways, Karnal :—

BEFORE SHRI S. B. AHUJA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,  
HARYANA, FARIDABAD

Reference No. 99/1983

between

SHRI RAJ KUMAR, C/O SHRI MUKAND LAL CHANANA, LABOUR LAW ADVISER JATTAN-  
WAL MUHALLA, KARNAL AND THE MANAGEMENT OF HARYANA ROADWAYS,  
KARNAL.

Present :

Shri Harish Bagri A. R. for the workman.

Shri S. N. Gaur, Law Officer for the Management.

#### AWARD

1. In exercise of the powers conferred by clause (d) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947, the Governor of Haryana referred the following dispute, between Shri Raj Kumar, workman and the management of M/s Haryana Roadways, Karnal to this Tribunal, for adjudication :—

Whether the termination of service of Shri Raj Kumar, is justified and in order? If not, to what relief is he entitled?

2. On notices being given, the parties appeared. The case of the petitioner is that he was appointed as Waterman on 16th April, 1978 and thereafter as Chowkidar with effect from 15th September, 1978 by the General Manager, Haryana Roadways Karnal. His services were terminated on 10 April, 1982 without any reason and without following prescribed procedure of law. He challenged the order of termination of his service and prayed that he be reinstated with continuity of service and full back wages.

3. The respondent filed its written statement. It was pleaded that the petitioner was appointed as Waterman on daily wages with effect from 16th April, 1978. His services were terminated as waterman with effect from 15th September, 1978 and thereafter he was appointed as Chowkidar on daily wages. The appointment was from month to month and ultimately his services were terminated on 9th April, 1982 as no longer required. It was specifically mentioned that the post on which the petitioner was working was abolished and as such his services were terminated. It was also pleaded that there was no alternative post on which he could be accommodated. Hence the Management pleaded that the termination of service of the petitioner is legal.

4. On the pleadings of the parties the following issues were settled by my predecessor Shri R. N. Batra the then Presiding Officer :—

(1) Whether the claimant was employed for a fixed period on daily wages? OPM

(2) Whether the termination of service of Shri Raj Kumar was justified and in order? If not, to what relief is he entitled? OPM

5. The respondent-Management examined Mahavir Singh Clerk as MW-1 whereas the workman came in witness box as WW-1 and also examined Mahavir Singh as WW-2.

6. I have heard Shri Harish Bagri learned Authorised representative for the workman and Shri S. N. Gaur, Law Officer for the Management and perused the record on the file. My findings on the aforesaid issues are as under: —

Issue No. 1 and 2.

7. Both these issues are interconnected and would be discussed together.

8. Ex. W-1 is the copy of appointment letter which indicates Shri Raj Kumar Petitioner was appointed as Chowkidar on daily wages for a period from 16th September, 1978 to 31st October, 1978. Ex. M-1 is another appointment letter which shows that the petitioner was appointed as chowkidar on daily wages from 1st March, 1980 to 31st March, 1980. It has come in the testimony of Shri Mahavir Singh Clerk MW-1 that the petitioner who was appointed as Chowkidar on 1st March, 1980 has worked upto 9th April, 1982 on that post on daily wages. It is also cleared from the testimony of Mahavir Singh WW 2 that Raj Kumar has been continuously working as Chowkidar from 15th September, 1978 to 9th April, 1982. Similar is the statement of Raj Kumar Petitioner WW-1. Thus it is amply established that the petitioner has been in continuous service of more than one year under the employer prior to termination of his services.

9. The services of the petitioner have been terminated,—vide order dated 9th April, 1982 Ex. M-2. The termination has been effected by passing order simpliciter. It is not disputed that the respondent has not complied with mandatory provisions of Section 25-F of the Industrial Disputes Act, 1947 before bringing about termination of service. Such termination of service clearly amounts to retrenchment. Even a daily wage worker who has rendered continuous of one year service cannot be retrenched without complying with requisite provisions of section 25-F of the Industrial Disputes Act, 1947. The termination of service on account of abolition of post would also amount to retrenchment. Consequently the termination of service of the petitioner is neither justified, nor in order and he is entitled to reinstatement with all back wages.

10. In the result the Petitioner is ordered to be reinstated with full back wages and with continuity of service. The reference is answered in favour of the petitioner. There is no order as to costs.

Dated, the 27th April, 1987.

S. B. AHUJA,  
Presiding Officer,  
Industrial Tribunal, Haryana,  
Faridabad.

Endorsement No. 485, dated the 30th April, 1987.

Forwarded (four copies), to the Financial Commissioner, and Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

S. B. AHUJA,  
Presiding Officer,  
Industrial Tribunal, Haryana,  
Faridabad.

No. 9/4/87-6Lab./3627.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Industrial Tribunal, Faridabad, in respect of the dispute between the workman and the management of M/s National Council for Cement and Building Material, Mathura Road, Ballabgarh: —

BEFORE SHRI S. B. AHUJA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,  
HARYANA, FARIDABAD

Reference No. 216/1986

between

SHRI JAI CHAND, SON OF SHRI MADAN, SINGH C/O SHRI DARSHAN SINGH, GENERAL  
SECRETARY, ITUC FARIDABAD INDUSTRIAL WORKERS UNION, MARKET  
NO. 1. N. I, T. FARIDABAD AND THE MANAGEMENT OF M/S  
NATIONAL COUNCIL FOR CEMENT AND BUILDING MATERIAL, MATHURA  
ROAD, BALLABGARH.

Present :—

Shri Darshan Singh A. R. for the workman.

Shri C. M. Lal, A. R. for the management.



## AWARD

In exercise of the powers conferred by clause (d) of sub-section (1) of Section-10 of the Industrial Disputes Act, 1947, the Governor of Haryana referred the following dispute between Shri Jai Chand workman and the Management of M/s National Council for Cement and Building Material, Mathura Road, Ballabgarh, to this Tribunal for adjudication:—

Whether the termination of service Shri Jai Chand is Justified and in order? If not, to what relief is he entitled?

2. Notices of the reference were sent to the parties who appeared.

3. The Petitioner's case is that he was appointed as Mali in May, 1982, but the respondent illegally terminated his service on 21st August, 1986 without any reason. He prayed for reinstatement with full back wages and continuity of service.

4. The respondent contested the case of the petitioner. It was *Inter alia* pleaded that the Government of Haryana is not the 'Appropriate Government' within the meaning of Section 2 (a) of the Industrial Disputes Act, 1947 *vis-a-vis*, the Management Institute and this Tribunal has no jurisdiction to entertain and adjudicate upon the present reference. It is not necessary to reproduce the other plea taken in the written statement because the reference is being disposed of otherwise than on merits.

5. On the pleadings of the parties, the following preliminary issue was settled: —

(1) Whether the Government of Haryana is not a appropriate Government to make the reference in this case? OPR.

6. The Management produced on record copy of award dated 8th March, 1987 passed by Shri M. C. Bhardwaj, the then Presiding Officer, Industrial Tribunal, Haryana, Faridabad wherein he had held that Central Government was the 'appropriate Government' for Cement Industries qua the Management of M/s Cement Research Institute of India, Ballabgarh. Ex. M-2 is the copy of award dated 17th December, 1981 passed by Shri Hari Singh Kaushik, Presiding Officer, Labour Court to the same effect. Ex. M-3 is the copy of cement control order, 1967 and Ex. M-4 is the copy of cement control (third amendment) Order, 1982. Ex. M-5 is the copy of memorandum issued by the under Secretary to Government of India, Ministry of Industry and Company Affairs, which shows that cement Research Institute of India, which is re-designated as National Council for cement and Building Material'. Ex. M-6 is the copy of notification of 8th November, 1977 which shows that by notification under sub-clause (i) of clause (a) of Section-2 of the Industrial Disputes Act, 1947 the Central Government has specified, for the purposes of that sub-clause, the controlled industry engaged in the manufacture or production of cement, which has been declared as controlled industry under Section 2 of the Industries Development and Regulation Act, 1911 (65 of 1951). Besides this, Ex. M-7 is the copy of Memorandum of Association of the Society viz National Council for Cement and Building Material.

6. The workman has not adduced any evidence.

7. I have heard Shri Darshan Singh Authorised Representative for the workman and Shri C. M. Lal, Authorised Representative for the respondent-Management and pursued the record on the file.

8. The learned authorised representative for the Management contended that for the purposes of this case, the appropriate Government under section 2 (a) (i) of the Industrial Disputes Act, 1947 was the Central Government as Management Institute was covered under cement Industry i. e. controlled industry. There is ample merit in his contention. Section 2 (a) (i) of the Industrial Disputes Act, 1947 states: —

(a) 'Appropriate Government means—

“(i) in relation to any industrial disputer concerning any industry carried on by or under the authority of Central Government or by a Railway Company or concerning any such controlled industry as may be specified in this behalf by the Central Government and”.

9. In order that the Central Government may be 'appropriate Government' in relation to controlled industry, two requirements are to be satisfied viz (i) industry, should be a 'controlled industry' and (ii) it should have been specified in this behalf i. e. for the purpose of Section 2(a) (i) of the Industrial Disputes Act, 1947. Both these requirements are fulfilled in this case.

An industry engaged in the manufacture or production of cement and gypsum products is controlled industry-under the First Schedule to the Industries Development and Regulation Act, 1951. Besides this, said industry has also been specified as controlled industry for the purposes of Section 2(a) (i) of the Industrial Disputes Act, 1947 by the Central Government,—vide notification Ex.M-6 of November, 1977,

10. Shri Darshan Singh, learned Authorised Representative for the workman cited the case of **Paritosh Kumar Pal V/s State of Bihar and others**, 1984 Lab. I. C. 1254 (Patna High Court) and urged that situs of the employment of the workman would determine Tribunal's jurisdiction. This ruling is not applicable to the facts of this case. Besides this, he cited the cases of **Marine Diesel Engine Project, Dhurwa, Ranchi V/s State of Bihar and others** 1980-Lab. I. C. page 1370, **Vinod Rao V/s Presiding Officer, 1st Labour Court, Ahmedabad and others** 1981 Lab. I. C. 191 and **Bihar Khandi Gramodyog Sangh Muzaffarpur V. State of Bihar and others** 1977 Lab. I. C. page 466 and urged that the employee was employed within the jurisdiction of Haryana and as such, Haryana Government is the appropriate Government. The authorities cited by him have no bearing to determine controversy in this case.

11. Hence I come to the conclusion that Central Government is the 'appropriate Government' for the Cement industry *vis-a-vis* the respondent-management Institute. Therefore, I hold that this Tribunal has no jurisdiction to deal with the present reference. That apart Cement Research Institute of India which has now been re-designated as national Council for Cement and Building Material is under the administrative control of the Government of India as is apparent from the memorandum Ex. M-5 dated 18th June, 1985. The workman may seek his remedy by moving appropriate Government. Therefore, the reference is bad on above ground and I Pass the award accordingly.

S. B. AHUJA,

Dated, the 28th April, 1987.

Presiding Officer,  
Industrial Tribunal, Haryana,  
Faridabad.

Endorsement No. 483, dated the 30th April, 1987.

Forwarded (four copies) to the Financial Commissioner and Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh as required under Section 15 of the Industrial Disputes Act, 1947.

S. B. AHUJA,

Presiding Officer,  
Industrial Tribunal, Haryana,  
Faridabad.

No. 9/4/87-Lab./3720.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Industrial Tribunal, Faridabad, in respect of the dispute between the workman and the management of M/s Bony Rubber Company, Pvt. Ltd., 9E, Sector 6, Faridabad:—

BEFORE SHRI S. B. AHUJA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL, HARYANA,  
FARIDABAD

Reference No. 76/1986

between

RAM DASS, S/O SHRI RAM VILAS, VILLAGE KETIYA, P. O. DUDHRA, DISTRICT GORAKHPUR  
(U. P.), AND THE MANAGEMENT OF M/S. BONY RUBBER COMPANY, PVT. LTD., 9E,  
SECTOR 6, FARIDABAD

Present:—

Shri Ram Dass, workman in person with Shri S. C. Srivastva, A. R.

Shri N. K. Kapoor and Shri J. S. Saroha, A. R., for the Management,

## AWARD

In exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947, the Governor of Haryana referred the following dispute between Shri Ram Dass, workman and the management of M/s Bony Rubber Company Pvt. Ltd., 9-E Sector 6, Faridabad, to this Tribunal, for adjudication :—

Whether the termination of services of Shri Ram Dass is justified and in order? If not, to what relief is he entitled?

2. Notices were issued to the parties, who appeared.

3. The case of the petitioner is that he was employed as Studor Machine Operator with the respondent-Company, but the respondent-Management dismissed him, on 23rd February, 1986 after holding false enquiry on false charges. He alleged that he was not given reasonable opportunity to defend himself during the domestic enquiry. He prayed for reinstatement with full back wages.

4. The Management controverted the stand of the petitioner. They pleaded that the workman was dismissed from service after holding fair and proper domestic enquiry on various charges.

5. The issues were settled and the case was fixed for evidence of the management.

6. Happily the parties have reached an amicable settlement. The statement of the parties and their authorised representatives have been reduced into writing. The workman has received Rs. 3577.55 paise as per settlement Exhibit M-1 and receipt Exhibit M-2 as full and final dues. He has relinquished his rights of reinstatement.

7. In view of the settlement between the parties, no point survives for adjudication. The award is passed accordingly.

S. B. AHUJA,

Dated the 4th May, 1987.

Presiding Officer,  
Industrial Tribunal, Haryana,  
Faridabad.

Endst. No. 575, dated 30th May, 1987.

Forwarded (four copies) to the Financial Commissioner & Secretary to Government, Haryana, Labour & Employment Departments, Chandigarh, as required under section 15 of Industrial Disputes Act 1947.

S. B. ANUJA,

Presiding Officer,  
Industrial Tribunal, Haryana,  
Faridabad.

No. 9/4/87-6Lab./3776.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad, in respect of the dispute between the workman and the management of M/s. Bony Rubber Company Pvt. Ltd., 9-E, Sector 6, Faridabad :—

BEFORE SHRI S. B. AHUJA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,  
HARYANA, FARIDABAD

Reference No. 69/1986

between

SHRI MOHAMMAD KADUS, S/O. MYNUDEEN V. KHAJUHARI P.O. GOPAL GANJ,  
(BIHAR) AND THE MANAGEMENT OF M/S. BONY RUBBER COMPANY  
PVT. LTD., 9-E. Sector 6, FARIDABAD

Present :

Mohammad Kadus, workman. in person Shri S. C. Srivastva, Authorised Representative.

Shri N. K. Kapoor, Personnel Officer and Shri J. S. Saroha, A. R. for the management.

## AWARD

In exercise of the powers conferred by clause (d) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947, the Governor of Haryana referred the following dispute between Shri Mohmad Kadus workman and the Management of M/s. Bony Rubber Company Pvt. Ltd., 9-E, Sector 6 Faridabad to this Tribunal for adjudication :—

Whether the termination of service of Shri Mohmad Kadus is justified and in order ? If not, to what relief is he entitled ?

2. Notice were issued to the parties, who appeared.

3. The case of the petitioner is that he was employed as Assembler Operator with the respondent-Company but the respondent-Management dismissed him on 1st March, 1986 after holding false enquiry on false charges. He alleged that he was not given reasonable opportunity to defend himself during domestic enquiry. He prayed for reinstatement with full back wages.

4. The Management controverted the stand of the petitioner. They pleaded that the workman was dismissed from service after holding fair and proper domestic enquiry on various charges.

5. The issues were settled and the case was fixed for evidence of the management.

6. Happily the parties have reached an amicable settlement. The statement of the parties and their authorised representatives have been reduced into writing. The workman has received Rs. 2,020.85 paise as per settlement Ex. M-1 and receipt Ex. M-2 as full and final dues. He has relinquished his rights of reinstatement.

7. In view of the settlement between the parties, no point survives for adjudication. The award is passed accordingly.

S. B. AHUJA,

Dated the 4th May, 1987.

Presiding Officer,  
Industrial Tribunal, Haryana,  
Faridabad.

Endst. No. 572, dated the 30th May, 1987.

Forwarded (four copies), to the Financial Commissioner and Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Act, 1947.

S. B. AHUJA,

Presiding Officer,  
Industrial Tribunal, Haryana,  
Faridabad.

No. 9/4/87-6Lab./3777.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Industrial Tribunal, Faridabad, in respect of the dispute between the workman and the management of M/s Bony Rubber Company Pvt. Ltd., 9-E, Sector 6, Faridabad :—

BEFORE SHRI S. B. AHUJA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,  
HARYANA FARIDABAD

Reference No. 70/1986

between

SHRI LAL BABU SINGH, S/O SHRI HOTI RAM, HOUSE NO. 2115, SECTOR 8, FARIDABAD  
AND THE MANAGEMENT OF M/S BONY RUBBER COMPANY PVT. LTD.,  
9-E, SECTOR 6, FARIDABAD

Present :—

Shri Lal Babu Singh workman in person with Shri S. C. Srivastva A. R.

Shri N. K. Kapur, Personnel Officer and Shri J. S. Saroha A. R. for the management.

## AWARD

In exercise of the powers conferred by clause (d) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947, the Governor of Haryana referred the following dispute between Shri Lal Babu Singh Workman and the Management of M/s. Bony Rubber Company Pvt. Ltd., 9-E, Sector-6, Faridabad to this Tribunal for adjudication :—

Whether the termination of service of Shri Lal Babu Singh is justified and in order ? If not, to what relief is he entitled ?

2. Notices were issued to the parties, who appeared.

3. The case of the petitioner is that he was employed as Checker with the respondent-Company, but the respondent-Management dismissed him on 1st March, 1986 after holding false enquiry on false charges. He alleged that he was not given reasonable opportunity to defend himself during the domestic enquiry. He prayed for reinstatement with full back wages.

4. The management controverted the stand of the petitioner. They pleaded that the workman was dismissed from service after holding fair and proper domestic enquiry on various charges.

5. The issues were settled and the case was fixed for evidence of the Management.

6. Happily the parties have reached an amicable settlement. The statement of the parties and their authorised representatives have been reduced into writing. The workman has received Rs. 3612-25 paise as per terms of settlement Ex. M-1 and receipt Ex. M-2 as full and final dues. He has relinquished his rights of reinstatement.

7. In view of the settlement between the parties no point survives for adjudication. The award is passed accordingly.

S. B. AHUJA,

Dated the 4th May, 1987.

Presiding Officer,  
Industrial Tribunal, Haryana,  
Faridabad.

Endst. No. 573, dated the 30th May, 1987.

Forwarded (four copies) to the Financial Commissioner and Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

S. B. AHUJA,

Presiding Officer,  
Industrial Tribunal, Haryana,  
Faridabad.

No. 9/4/87-Lab./3778.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Industrial Tribunal Faridabad in respect of the dispute between the workman and the management of M/s Bony Rubber Company Pvt. Ltd., 9E, Sector 6, Faridabad :—

BEFORE SHRI S. B. AHUJA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,  
HARYANA, FARIDABAD

Reference No. 71/1986

between

SHRI KESHWAR YADAV S/O SHRI JANKI YADAV V. JURAR RAMAT P.O.  
BHANTWANI DISTRICT DEVARIA (UTTAR PRADESH) AND THE MANAGEMENT  
OF M/S BONY RUBBER COMPANY PVT. LTD., 9-E, SECTOR 6,  
FARIDABAD

Present :

Shri Keshwar Yadav Workman in person with Shri S. C. Srivastva, A. R.

Shri N. K. Kapoor Personnel Officer and Shri J. S. Saroha A. R. for the management.

## AWARD

1. In exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947, the Governor of Haryana referred the following dispute between Shri Keshwar Yadav workman and the management of M/s Bony Rubber Pvt. Ltd., 9-E, Sector-6, Faridabad to this Tribunal for adjudication :—

Whether the termination services of Shri Keshwar Yadav is justified and in order ? If not, to what relief is he entitled ?

2. Notices were issued to the parties, who appeared.

3. The case of the petitioner is that he was employed as Folding Machine Operator but the respondent-Management dismissed him on 1st March, 1986 after holding false enquiry on false charges. He alleged that he was not given reasonable opportunity to defend himself during the domestic enquiry. He prayed for reinstatement with full back wages.

4. The Management controverted the stand of the petitioner. They pleaded that the workman was dismissed from service after holding fair and proper domestic enquiry on various charges.

5. The issues were settled and the case was fixed for evidence of the management.

6. Happily the parties have reached an amicable settlement. The statement of the parties and their authorised representatives have been reduced into writing. The workman has received Rs. 1819.00 as per terms of settlement Ex. M-1 and receipt Ex. M-2 as full and final dues. He has relinquished his rights of reinstatement.

7. In view of the settlement between the parties no point serves for adjudication. The award is passed accordingly.

S. B. AHUJA,

Presiding Officer,  
Industrial Tribunal Haryana,  
Faridabad.

Dated the 4th May, 1987.

Endorsement No. 574, dated the 30th May, 1987.

Forwarded (four copies), to the Financial Commissioner & Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

S. B. AHUJA,

Presiding Officer,  
Industrial Tribunal Haryana,  
Faridabad.

No. 9/3/87-6Lab./3779.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Industrial Tribunal, Faridabad in respect of the dispute between the workman and the management of M/s. Bony Rubber Company Pvt., 9-E, Sector 6, Faridabad :

BEFORE SHRI S. B. AHUJA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,  
HARYANA, FARIDABAD

Reference No. 73/1986  
between

SHRI CHHAVINATH MISRA. V. AND P. O. MOHMADPUR, DISTRICT CHHAPRA,,  
SARAN (BIHAR) 841223 AND THE -MANAGEMENT OF M/S BONY  
RUBBER COMPANY PVT. LTD., 9-E, SECTOR-6,  
FARIDABAD.

Present.—

Shri Chhavinath workman in person with S. C. Srivastva, A. R.

Shri Ramesh Kumar Kapoor, Personnel Officer, with Shri J. S. Saroha, A. R. for the management.

## AWARD

In exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947, the Governor of Haryana referred the following dispute between Shri Chhavinath Misra workman and the management of M/s. Bony Rubber Company Pvt. Ltd., 9-E, Sector 6, Faridabad to this Tribunal for adjudication :—

Whether the termination of service of Shri Chhavinath Misra, is justified and in order? If not, to what relief is he entitled?

2. Notices were issued to both the parties, who appeared.

4- The case of petitioner is that he was employed with the respondent-Company as packaging Helper but the respondent dismissed him on 23rd February, 1986 after holding false enquiry on false charges. He alleged that he was given reasonable opportunity to defend himself during the domestic enquiry. He prayed for reinstatement with full back wages.

The Management controverted the stand of the petitioner, They pleaded that the workman was dismissed from service after holding fair and proper domestic enquiry on various charges.

5. The issues were settled and the case was fixed for evidence of the management.

6. Happily the parties have reached an amicable settlement. The statement of the parties and their authorised representatives have been reduced into writing. The workman has received Rs. 1062-55 paise as per terms of settlement Ex. M-1 and receipt Ex. M-2 in full and final dues, He has relinquished his rights of reinstatement.

7. In view of the statement between the parties no point survives for adjudication. The award is passed accordingly.

S. B. AHUJA,

Dated the 4th May, 1987.

Presiding Officer,  
Industrial Tribunal Haryana,  
Faridabad.

Endorsement No. 578, dated 30th May, 1987.

Forwarded (four copies) to the Financial Commissioner and Secretary to Government, Haryana, Labour and Employment Department, Chandigarh, as required under section 15 of Industrial Disputes Act, 1947.

S. B. AHUJA,  
Presiding Officer,  
Industrial Tribunal Haryana,  
Faridabad.

No. 9/4/87-6Lab./3781.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947) the Governor of Haryana is pleased to publish the following award of Presiding Officer, Industrial Tribunal, Faridabad in respect of the dispute between the workman and the management of M/s. Bony Rubber Company Pvt. Ltd., 9-E, sector 6, Faridabad.

BEFORE SHRI S. B. AHUJA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL  
HARYANA, FARIDABAD

Ref. No. 77/1986

between

SHRI CHANDRIKA PARSHAD S/O RAM BACHAN V. LATHIA (MUNGESAR) P. O.  
MUNGMAINS, DISTRICT AJAMGARH (U. P.), AND THE MANAGEMENT OF M/S.  
BONY RUBBER COMPANY PVT. LTD., 9-E, SECTOR-6, FARIDABAD.

Present:

Shri Chandrika Parshad workman in person with Shri S. C. Srivastva A. R.

Shri N. K. Kapoor personnel Officer and Shri J. S. Saroha A. R. for the management.

**AWARD**

In exercise of the powers conferred by clause (d) of sub-section (1) of section-10 Industrial Disputes Act, 1947 the Governor of Haryana referred the following dispute between Shri Chandrika Parshad workman and the management of M/s Bony Rubber Company Pvt. Ltd., 9-E, Sector-6 Faridabad to this Tribunal for adjudication :—

1. Whether the termination of service of Shri Chandrika Parshad is justified and in order ? if not to what relief is he entitled ?
2. Notices were issued to the parties; who appeared.
3. The case of the petitioner is that he was employed as a Sewing Machine man with the respondent on 22nd October, 1981 but the respondent-management dismissed him on 1st March, 1986 after holding false enquiry on false charges. He alleged that he was not given reasonable opportunity to defend himself during the domestic enquiry. He prayed for reinstatement with full back wages.
4. The Management controverted the stand of the petitioner. They pleaded that the workman was dismissed from service after holding fair and proper domestic enquiry on various charges.
5. Happily the parties have reached an amicable settlement. The statement of the parties and their authorised representatives have been reduced into writing. The workman has received Rs. 1098-10 paise as per terms of settlement Ex.M-1 and receipt Ex.M-2 as full and final dues. He has relinquished his rights of reinstatement.
6. In view of the settlement between the parties, no point survives for adjudication. The award is passed Accordingly.

Dated 4th May, 1987.

S. B. AHUJA,  
Presiding Officer,  
Industrial Tribunal, Haryana,  
Faridabad.

Endst. No. 576, dated 30th May, 1987.

Forwarded (Four Copies), to the Financial Commissioner and Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

S. B. AHUJA,  
Presiding Officer,  
Industrial Tribunal, Haryana,  
Faridabad.

No. 9/4/87-6Lab./3782.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Industrial Tribunal, Faridabad in respect of the dispute between the workman and the management of M/s Bony Rubber Pvt. Ltd., 9-E Sector 6, Faridabad :—

**BEFORE SHRI S. B. AHUJA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,  
HARYANA, FARIDABAD**

**Reference No. 78/1986**

*between*

**SHRI CHHATARDARI SON OF SHRI SEHDEV GAUR V. PATERVENTI P.O. BHANTUANI  
DISTRICT DEVRIA (U.P.) AND THE MANAGEMENT OF M/S BONY RUBBER COMPANY,  
PVT. LTD., 9-E, SECTOR 6, FARIDABAD.**

**Present:**

Shri Chhaterdhari Workman in person with Shri S. C. Srivastva, A. R.  
Shri N. K. Kapoor, Personnel Officer, with Shri J. S. Saroha, A. R. for the management.



## AWARD

In exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947, the Governor of Haryana referred the following dispute between Shri Chhaterdhari workman and the management of M/s. Bony Rubber Company Pvt. Ltd., 9-E, Sector 6, Faridabad to this Tribunal for adjudication :—

Whether the termination of service of Shri Chhaterdhari is justified and in order ? If not, to what relief is he entitled ?

2. Notices were issued to the parties, who appeared.

3. The case of the petitioner is that he was employed as Assembler Operator with the respondent Company but the respondent management dismissed him on 1st March, 1986 after holding false enquiry on false charges. He alleged that he was not given reasonable opportunity to defend himself during the domestic enquiry. He prayed for reinstatement with full back wages.

4. The management controverted the stand of the petitioner. They pleaded that the workman was dismissed from service after holding fair and proper domestic enquiry on various charges.

5. The issues were settled and the case was fixed for evidence of the Management.

6. Happily the parties have reached an amicable settlement. The statement of the parties and their authorised representatives have been reduced into writing. The workman has received Rs. 3,788.75 paise as per terms of settlement Ex. M-1 and receipt Ex. M-2 as full and final dues. He has relinquished his rights of reinstatement.

7. In view of the settlement between the parties no point survives for adjudication. The award is passed accordingly.

Dated the 4th May, 1987.

S. B. AHUJA,  
Presiding Officer,  
Industrial Tribunal, Haryana,  
Faridabad.

Endst. No. 577, dated the 30th May, 1987

Forwarded (four copies) to the Financial Commissioner and Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

S. B. AHUJA,  
Presiding Officer,  
Industrial Tribunal, Haryana,  
Faridabad.

The 6th/8th May, 1987

No. 9/1/87-6Lab./2541.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Labour Court, Ambala, in respect of the dispute between the Workman and the Management of M/s. (i) Deputy Commissioner, Ambala, (ii) Administrator, Municipality, Shahzadpur (Ambala).

IN THE COURT OF SHRI V. P. CHAUDHARY, PRESIDING OFFICER, LABOUR COURT,  
AMBALA

Reference No. 15 of 1986

SHRI ASHOK KUMAR C/O SHRI RAJESHWAR NATH, 2655, TIMBER MARKET, AMBALA CANTT  
AND THE MANAGEMENT OF THE MESSRS DEPUTY COMMISSIONER, AMBALA,  
(II) ADMINISTRATOR, MUNICIPALITY, SHAHZADPUR (AMBALA)

Present :

Shri Rajeshwar Nath for workman.  
Shri S. Bindra for respondent.

## AWARD

The Hon'ble Governor of Haryana in the exercise of its powers conferred *vide* clause (C) of sub-section (i) of section 10 of Industrial Disputes Act, 1947 referred dispute between Shri Ashok Kumar and Messrs Administrator, Municipality, Shahzadpur, etc. to this Court. The terms of the reference are as under:-

"Whether termination of services of Shri Ashok Kumar workman is just and correct? If not, to what relief is he entitled?"

Workman through his demand notice alleged that he joined as Octroi Moharar in the service of respondent-management on 24th August, 1982. His services were terminated on 14th August, 1985 in violation of provisions of section 25 (F) of Industrial Disputes Act, 1947. He has prayed for his reinstatement with continuity in service and with full back wages.

Respondent-management contended that Deputy Commissioner was the necessary party but he was not impleaded as a party to litigation. Workman was directly recruited. During the audit objection it was pointed out by the auditors that appointment of workman was direct not through Employment Exchange, so services of the workman were terminated. Since the workman was employed on daily wages basis. In terminating his services there was no necessity of issuing notice and making payment of retrenchment compensation, so neither notice was given before the termination nor retrenchment compensation was paid to him. So it was urged that termination of the workman was in order.

On the pleadings of the parties the following issues were framed :—

**Issue No. 1 :**

Whether termination of services of workman is unjust and illegal ? If so, its effect ?

**Issue No. 2 :**

Whether reference is bad for mis-joinder of necessary parties ? If so, its effect ?

**Issue No. 3 :**

Relief.

I have heard Authorised Representatives of the parties and have perused the oral and documentary evidence placed on the file. My issue-wise findings are as under :

**Issue No. 1 :**

In support of this issue workman examined himself as AW-1 he stated that he joined service of respondent-management as Octroi Moharar on 23rd August, 1982 and remained in the service of respondent-management up to 14th June, 1985. Thereafter his services were terminated without any notice and without making payment of retrenchment compensation. In cross-examination he admitted that he was appointed directly as daily wage at present he is serving in the Municipality, Jagadhri.

Respondent-management examined Shri Bali Ram, Secretary, Shahzadpur who deposed that workman was appointed on daily wages against the vacant post. In cross-examination he admitted that at the time of dispensing with the services the workman was not issued any notice nor any retrenchment compensation was paid to him. Termination of the workman is based on objection raised by the audit party.

In view of the above evidence the following factors have become clear, firstly : that the workman joined as a daily wage. Secondly ; the workman remained in service of respondent-management for more than 240 days. Thirdly ; services of respondent were terminated without issuing any notice and without making payment of retrenchment compensation.

Since the workman remained in service of respondent-management more than 240 days. So before terminating his services one month notice was required if his services were to be terminated with immediate effect in those circumstances pay in lieu of notice period must have been given to him. The workman must have been paid the trenchment compensation and the appropriate authority Government of Haryana should have been informed but neither notice was issued nor retrenchment compensation was paid nor the Government of Haryana was informed about the termination of the workman, so there is violation of provisions of section 25 (F) of Industrial Disputes Act, 1947. It has come on the file in the proceedings taken up before the Labour Officer, Ambala that appointment of workman was made directly without inviting his name either through Employment Exchange nor giving notice in any newspaper due to that fact when the audit party conducting audit of respondent management. It revealed that the appointment of the workman was irregular. On that very account the services of the workman were terminated. The person who

recruited the workman in violation of the above provisions and rules laid down by the Government for the employment of such employees. The workman was made unnecessarily scape goat of the illegal action of the person who recruited him out of way.

It is in the evidence that in place of the present workman some other person has been recruited. The workman at present is working in Municipal Committee, Jagadhri. There is no evidence on the file that during the period of termination and in between the day of joining the Municipal Committee, Jagadhri workman remained un-employed, so present workman is not entitled to the wages for the intervening period, however, the workman is entitled to pay, in lieu of notice period and retrenchment compensation. It is also ordered that from the day of termination and his re-employment in Municipal Committee, Jagadhri that period be also considered as a workman remained in the service of respondent.

In view of my above discussion I order that the period for which workman remained out of job shall be treated a period towards continuity of service of the workman and his whole service be accounted for towards his seniority, pay, in lieu of notice period and retrenchment compensation shall be paid to him. Workman is already in service, so that relief of reinstatement has become infructuous. So with these observations the present issue is decided in favour of workman, against the management.

**Issue No. 2 :**

In the reference Deputy Commissioner, Ambala and Administrator, Municipality, Shahzadpur both have been made party to this Industrial Dispute, so the reference is not at all bad for non-joinder of necessary parties, in other words the reference is proper and correct in the eyes of law, so this issue is decided in favour of workman, against the respondent-management.

**Issue No. 3 :**

For the foregoing reasons on the basis of my issue-wise findings I hold that the workman shall be entitled to pay, in lieu of notice period, retrenchment compensation benefit of continuity in service without back wages for the period during which he remained unemployed because there is no such claim for it with no orders as to costs. I pass award regarding the dispute in hand between the parties accordingly.

Dated the : 20th February, 1987.

V. P. CHAUDHARY,  
Presiding Officer,  
Labour Court, Ambala.

Endst. No. 374, dated : the 20th February, 1987

Forwarded (four copies) to the Financial Commissioner and Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of Industrial Disputes Act, 1947.

The 6th May, 1987

V. P. CHAUDHARY,  
Presiding Officer,  
Labour Court, Ambala.

No. 9/1/87-6Lab/2549.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Labour Court, Ambala, in respect of the dispute between the Workman and the Management of M/s. Municipal Committee, Safidon.

IN THE COURT OF SHRI V. P. CHAUDHARY, PRESIDING OFFICER, LABOUR COURT, AMBALA

Reference No. 128 of 1984

(Old No. 50 of 1982)

SHRI BALWAN SINGH, WORKMAN, C/O. GENERAL SECRETARY KARAMCHARI UNION, JIND AND THE MANAGEMENT OF THE MUNICIPAL COMMITTEE, SAFIDON

**Present:**

Shri K. R. Bansal for workman.  
Shri B. R. Sukhla for respondent.

## AWARD

The Hon'ble Governor of Haryana in the exercise of its powers conferred,—*vide* clause (C) of sub-section (i) of section 10 of Industrial Disputes Act, 1947 referred dispute between Shri Balwan Singh and Messrs Municipal Committee, Safidon. originally to Labour Court, Rohtak. The terms of the reference are as under :—

Whether termination of services of Shri Balwan Singh was justified and in order; if not, to what relief is he entitled?

Labour Court at Ambala was created in April 1984 so this reference was received by transfer.

Workman alleged that he joined service of respondent-management,—*vide* order No. 18, dated the 20th July, 1979 on 23rd July, 1979 the post of an Octroi Moharar with the condition that he shall continue in service till the regular appointment is made on the post through Employment Exchange. On 31st August, 1979 his services were confirmed. This conformation was cancelled,—*vide* order No. 81 of 1st February, 1980. Ultimately on 22nd April, 1980 his services were dispensed with under the order of Deputy Commissioner, Jind and it was ordered that an advertisement will be published in the Daily Newspaper Punjab Kesari and vacancies will be filled up regularly through an advertisement. Workman alleged that his termination is violative to provisions of section 25(F). He has prayed for his reinstatement with continuity in service and with full back wages.

Respondent-management contested the dispute and contended that the present dispute does not fall in the definition of Industrial Dispute. Municipal Committee is not an industry. This reference is bad. It was also contended that the appointment of workman was done in a irregular manner and accordingly he was confirmed even without completing service of one year when it came to the notice of the Deputy Commissioner that this appointment is irregular and without adopting prescribed norms of recruitment. On that score services of Shri Balwan Singh were terminated in view of terms and conditions of his appointment.

On the pleadings of the parties the following issues were framed by my Learned Predecessor.

Issues :

1. Whether the reference is bad in law as per reasons given in Para-1 and 2 of the preliminary objection?
2. As per reference.

I have heard Authorised Representatives of the parties and have perused the oral and documentary evidence placed on the file. My issue-wise findings are as under :

Issue No. 1 :

In para No. 1 of the preliminary legal objection it has been contended by the respondent that respondent Municipal Committee is covered under the provisions of Shop and Commercial Acts and is not an industry. It is a settled view that the Municipal Committee performs certain duties for the public and in performance of those duties they earn revenue by means of charging Octroi Duty, House Tax, Property tax etc. In addition to that Municipal Committees are provided budget by the State Government through its Local Self Department. This shows that the Municipal Committee is a Commercial Establishment. It has got earning as well as it spent on public works thus it is a settled view that the dispute pertaining to employer Municipal Committee and its employees are covered under the Industrial Disputes Act and are to be tried on reference by the Appropriate Government by the concerned Labour Courts. Thus this issue is decided in favour of workman against the management.

Issue No. 2 :

In support of this issue workman Balwan Singh appeared as AW-1, he stated that he joined service of respondent-management Municipal Committee, Safidon on 23rd July, 1979 as an Octroi Moharar. His services were regularised on 31st August, 1979. The regularisation orders were revoked on 1st February, 1980 and thereafter on 22nd April, 1980 his services were terminated without any notice and without making payment of any retrenchment compensation to him. He tendered into evidence copy of appointment letter Exhibit A-1. Copy of regularisation is A-2. Copy of revocation A-3. Copy of termination A-4. On the other hand respondent-management examined Shri P. C. Sharma who appeared as MW-1 Shri P. C. Sharma deposed that appointment of applicant Balwan Singh was made by Shri Gursarup, Administrator without getting published the vacancies in the paper. Without requisitioning candidates from the local Employment Exchange and after one month, service of Shri Balwan Singh was regularised without following the proper procedure. This fact came to the notice of Dputy Commissioner when he inspected the affairs of Municipal Committee, Safidon. This irregularity was eliminated while removing Shri Balwan Singh from the service.

In view of the above pleadings and evidence of the parties it has become clear that if any appointment of any employee of Municipal Committee is to be made, those to be made through Employment Exchange or by way of advertisement of the vacancy of particular post in the daily newspaper. But in the case of Shri Balwan Singh neither publication of the post was made in daily newspaper nor the candidates were requisitioned from the Employment Exchange and Shri Balwan Singh was given this job in a direct way and immediately after one month of his joining, his services were confirmed. This shows that his appointment was irregular and administrator concerned has shown an special favour to Shri Balwan Singh while confirming his service.

Case of the workman is that he had completed services of 240 days, while terminating his services he should have been given one month's notice and should have also been given retrenchment compensation in compliance with provisions of section 25(F) of the Industrial Disputes Act, 1947 but there is no compliance of the provisions of section 25(F) of Industrial Disputes Act, 1947. Shri P. C. Sharma in his statement categorically stated that service of Shri Balwan Singh was less than 240 days, so there was no necessity of issuing any notice nor there is any necessity of payment of making retrenchment compensation. When this evidence has come on the file from the side of respondent-management in those circumstances it was the duty of the workman to have led specific evidence while summoning the record of the respondent-management that the workman in fact worked more than 240 days in the respondent-management but the workman did not make any effort to establish this fact that in fact he worked in the respondent-management either 240 days or more than 240 days. Section 25(F) of Industrial Disputes Act reads that conditions precedent to retrenchment of workman no workman employed in any industry who has been in continuous service for not less than one year under an employer shall be retrenched by that employer until :

'A' the workman has been given one month's notice in writing indicating the reasons for retrenchment and the period of notice has expired or the workman has been paid in lieu of such notice wages for the period of notice:

Provided that no such notice shall be necessary if the retrenchment under an agreement which specifies a date for the termination of services ;

'B' the workman has been paid at the time of retrenchment compensation which shall be equivalent of 15 days over-wage pay for other completing year of conditions of service or any part thereof in excess of six months and 'C' notice in the prescribed manner is served on the appropriate Government or such authority as may be specified by the appropriate Government by notification in the official Gazette.

Before reaching at the conclusion of this dispute it will be most appropriate to quote the terms and conditions of the appointment of the workman. Copy of appointment letter Exhibit A-1 reads in accordance with general order No. 18 dated the 20th July, 1979 Shri Balwan Singh son of Shri Bhagwan Singh appointed as an Octroi Moharar with immediate effect. The appointment will be purely temporary and will continue till the regular appointment is made on the post through Employment Exchange. In case of relieving the concerned person no further notice will be required.

It is also essential to refer para No. 1 of the statement of claim filed by the workman which reads that provided the applicant is an employee of the Municipal Committee, Safidon. The applicant was employed as an Octroi Moharar,—vide order No. 18 of 20th July, 1979. Appointment was made on purely temporary basis and it was to remain continue till the regular appointment is made on the post through Employment Exchange.

With the above background it has become clear that appointment of Shri Balwan Singh was made by Administrator without calling the candidates through Employment Exchange, without advertising the post in daily newspaper and as per the pleadings of the workman himself he was to be kept in service till the regular appointment is made on his post through Employment Exchange or by way of making recruitment while inviting the candidates through advertisement in daily newspaper. So admittedly his appointment was purely temporary in nature. His services were regularised within one month of his appointment but those orders of regularisation were revoked by the Competent Authority.

Defence of the respondent is that at the time of terminating services of workman Balwan Singh his service was less than 240 days while the stand of the workman is that he had completed 240 days. The onus was upon the workman Balwan Singh to establish that he remained in job of respondent-management for 240 days or more than 240 days. He should have summoned attendance register of the respondent-management to establish this fact but he failed to do so.

Statement of Shri P. C. Sharma who is working as Under Secretary in the Government of Haryana is more reliable and convincing. Then the statement of applicant has to be believed in the absence of any documentary evidence when it was available with the respondent-management and was not produced. So withholding of a documentary evidence by the workman goes against him. Since it is not proved on

the file that workman worked for 240 days in the service of respondent-management, so respondent-management was not bound to issue any notice one month before terminating his service nor it was required to pay retrenchment compensation to the workman and moreover his appointment was most irregular as per terms and conditions of his appointment. The respondent-management was not bound to issue any notice to the workman before terminating his service, so the termination order is just, correct and legal. This issue is decided in favour of management against the workman.

**Issue No. 3 :**

For the foregoing reasons on the basis of my findings on issue No. 2, I hold that the order of termination of services of Shri Balwan Singh is just and correct, so I pass award regarding the dispute in hand accordingly.

Dated the 6th February, 1987.

V. P. CHAUDHARY,  
Presiding Officer,  
Labour Court, Ambala.

Endst. No. 323-A, dated the 10th February, 1987.

Forwarded (four copies) to the Financial Commissioner and Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

V. P. CHAUDHARY,  
Presiding Officer,  
Labour Court, Ambala.

No. 9/1/87-6Lab./2552.—In pursuance of the Provision of Section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947) the Governor of Haryana is pleased to publish the following award of Presiding Officer, Labour Court, Ambala in respect of the dispute between the workman and the management of (i) Deputy Commissioner, Ambala (ii) Administrator, Municipality, Shahzadpur (Ambala) :—

IN THE COURT OF SHRI V.P. CHAUDHARY, PRESIDING OFFICER, LABOUR COURT, AMBALA

Reference No. 13 of 1986.

SHRI RAMESH SETHI C/O SHRI RAJESHWAR NATH 2655, TIMBER MARKET, AMBALA CANTT. AND THE MANAGEMENT OF (i) DEPUTY COMMISSIONER (AMBALA), (ii) ADMINISTRATOR, MUNICIPALITY, SHAHZADPUR (AMBALA).

**Present :**

Shri Rajeshwar Nath for workman.

Shri S. Bindra for respondent.

**AWARD**

The Hon'ble Governor of Haryana in the exercise of his powers conferred,—vide clause (C) of sub-section (i) of section 10 of Industrial Disputes Act, 1947 referred dispute between Shri Ramesh Sethi and the Administrator, Municipality, Shahzadpur to this court. The terms of the reference are as under :—

“Whether termination of services of Shri Ramesh Sethi, workman, is just and correct; if not, to what relief is he entitled ?”

Workman through his demand notice dated 12th August, 1985 alleged that he joined service of respondent-management on 9th January, 1983 as an Octroi Moharar. His services were terminated by the respondent-management on 14th June, 1985 in violation of fundamental provisions of section 25 (F) of Industrial Disputes Act, 1947. He prayed for his reinstatement with continuity in service and with full back wages.

Respondent-management contested the dispute and contended, that the reference is bad for misjoinder of necessary parties. The workman was employed on daily wages. He joined service of respondent-management on 1st September, 1983 as a Casual Labourer. He was neither a regular nor a confirmed employee. On the arrival of regular candidates his services were dispensed with as per terms and conditions of his employment.

Workman filed replication through which he re-affirmed his own claim.

On the pleadings of the parties, the following issues were framed :—

Issues :

- (1) Whether termination of services of workman is unjust and illegal, if so, its effect ?
- (2) Whether reference is bad for misjoinder of necessary parties, if so, its effect ?
- (3) Relief ?

I have heard Authorised Representatives of the parties and have perused the oral and documentary evidence placed on the file. My issuewise findings are as under :—

Issue No. 1 :

In support of this issue, Shri Ramesh Sethi, workman appeared as AW-1. He stated that he joined service of respondent-management on 1st September, 1983 as an Octroi Moharer and served the respondent-management up to 14th June, 1985. Before terminating his services no notice was issued to him, no retrenchment compensation was paid to him. He served demand notice Ex-A-1. In cross-examination he stated that he joined service of respondent as a direct recruit without Employment Exchange and without any advertisement in newspaper. When regular employees were recruited in his place and in place of other persons, he was invited for interview thrice but all the time interview was cancelled. His name was sponsored by the Employment Exchange but no interview was held and without interview recruitment of Octroi Moharer was made by the respondent. From the side of respondent-management Shri Bali Ram appeared who admitted that workman joined service of the respondent-management as a direct candidate. On the arrival of regular candidates from Deputy Commissioner, Ambala services of the workman Shri Ramesh Sethi were terminated. Before termination no notice was issued to him, no pay, in lieu of, notice period was paid to him. Even no retrenchment compensation was paid to him. As per statement of the workman his name was sponsored by the Employment Exchange but he was not selected. Other candidates were selected.

In view of the above circumstances when it is proved that termination of Shri Ramesh Sethi is violative to provisions of section 25 (F) of Industrial Disputes Act, 1947 and at the time of recruitment of regular candidates claim of Shri Ramesh Sethi was superior because he had already served the respondent-management from 1st September, 1983 to 14th June, 1985, so he is an experienced person. Non-recruitment is also bad in view of judicial pronouncement 1980 (57) FJR page 206 case titled Nawanshar Central Co-operative Bank Limited and Labour Court in which it was observed that the workman who has been retrenched by the employer and who offered himself for re-employment for a similar post, shall have preference over other persons. The section is widely worded. It does not say that the section will be applicable if the employer wants to employ a workman on the same post from which the employee has been retrenched. It is wide enough to cover the case of a retrenched employee who has been recruited for a specific period on an *ad hoc* basis. In my opinion the findings of the Tribunal that the petitioner is entitled to the post of the Clerk in preference to others under section 25 (H) is correct.

In view of the above law laid down by the Hon'ble High Court of Punjab and Haryana, I am of the considered view that the termination of workman is illegal and unjust. When the regular recruitment was made preference should have been given to Shri Ramesh Sethi for employment against his own vacant post on which he was already working. But the respondent did not select workman Shri Ramesh Sethi, in spite of fact that his name was sponsored by the Employment Exchange as per statement of the workman in his cross-examination and this statement was never rebutted by the respondent in rebuttal. So the workman is entitled to reinstatement with effect from 15th June, 1985. There is no evidence on the file that the workman remained without job. He has not claimed his back wages in his statement, so he is not entitled to back wages. However, he is entitled to pay, in lieu of, notice period and retrenchment compensation as per provisions of section 25 (F) of Industrial Disputes Act, 1947. So this issue is decided, in favour of, workman against the management.

Issue No. 2 :

Respondent-management has taken a preliminary objection in the reply that the reference is bad for misjoinder of parties because Administrator, Municipality, Shahzadpur was not served a demand notice, in other words he was not impleaded party in demand notice but in the reference he has been joined as

a party to this litigation because under the orders of Deputy Commissioner, Ambala services of the workman were terminated by Administrator, Municipality, Shahzadpur, so he is a necessary and proper party. And there is no question of misjoinder of parties in this reference. So this issue is also decided, in favour of workman against the respondent-management.

Issue No. 3 :-

For the foregoing reasons on the basis of my issuewise findings, I order the reinstatement of workman without back wages from the day of termination with the relief of continuity in service. In addition to that workman shall also be entitled to pay, in lieu of, notice period and retrenchment compensation. I pass award regarding the dispute between the parties accordingly.

V. P. CHAUDHARY,

Presiding Officer,  
Labour Court, Ambala.

Dated, the 10th February, 1987.

Endst. No. 321, dated the 10th February, 1987.

Forwarded (four copies) to the Financial Commissioner and Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of Industrial Disputes Act, 1947.

V. P. CHAUDHARY,

Presiding Officer,  
Labour Court, Ambala.

No. 9/1/87-6 Lab./2560.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award or Presiding Officer, Labour Court, Ambala in respect of the dispute between the workman and the Management of M/s (i) Secretary, Haryana State Electricity Board, Chandigarh, (ii) Executive Engineer, City Division, H.S.E.B., Gohana Road, Panipat :—

IN THE COURT OF SHRI V.P. CHAUDHARY, PRESIDING OFFICER, LABOUR COURT, AMBALA

Reference No. 64 of 1985

SHRI SATBIR SINGH C/O BHARAT MAZDOOR SINGH, G.T. ROAD, PANIPAT AND THE MANAGEMENT OF THE MESSRS SECRETARY, HARYANA STATE ELECTRICITY BOARD, CHANDIGARH. (II) EXECUTIVE ENGINEER, CITY DIVISION, H.S.E.B., GOHANA ROAD, PANIPAT

Present :—

Ch. Karan Singh for workman.

Shri Narinder Paul Singh for respondent.

#### AWARD

The Hon'ble Governor of Haryana in the exercise of its powers conferred,—vide clause (c) of sub-section (i) of the section 10 of Industrial Disputes, Act, 1947 referred dispute between Shri Satbir Singh and Messrs H.S.E.B., etc. to this court. The terms of the reference are as under :—

“Whether termination of services of Shri Satbir Singh is just and correct, if not, to what relief is he entitled ?”

Workman through his statement of claim alleged that he remained in the service of respondent-management more than 240 days. Respondent-management served notice, dated 1st August, 1983, for terminating the services of the workman up to, 1st September, 1983 and directed the workman to collect the retrenchment compensation on 5th September, 1983 from the respondent-management. It was further alleged that this notice was served by the respondent-management with the intention to save itself from the provision of section 25 (F). In fact, respondent-management did not like to retain the workman in its job. Had the respondent-management would have been fair; in those circumstances the services of workman must have been placed at the disposal of some other division. So it was prayed that the termination of services of the workman is violative to the general policy of the board. So workman is entitled to reinstatement with continuity in service and with full back wages.



Respondent-management contested the dispute and contended that the reference is bad for non-joinder of necessary parties. Workman has no cause of action. Termination of services of the workman is just and proper because there was a paucity of work and material with the respondent-management. So it issued one month notice before terminating the services of workman. Seniority list was displayed on the notice-board. Workman was asked to collect the retrenchment compensation and other dues before the date of expiry of notice period. When the workman did not appear to collect the retrenchment compensation and other dues those were despatched to workman through money-orders at his home address. Which have been received by him. No junior of the workman was left unretrenched nor any person has been joined in place of the workman. Seniority list of the daily wages workers is on Division level basis and as such, the daily wages worker cannot be transferred from one Division to another Division since the petitioner workman was daily wages worker as such there was no question of transfer of workman in some other division.

On the pleadings of the parties, the following issues were framed :

**Issues :**

- (1) Whether the impugned termination order is just, if not, its effect ? OPM
- (2) Whether the reference is bad for non-joinder of necessary parties ? OPM
- (3) Whether applicant has no cause of action, if so, its effect ? OPM
- (4) Relief ?

I have heard Shri Karan Singh for workman and Shri Narinder Paul Singh for respondent-management and have perused the oral and documentary evidence placed on the file. My issuewise findings are as under :

**Issue 1 :**

Regarding this issue, I would like to hold on the basis of evidence of the parties that there was a paucity of work in the respondent-management due to that fact respondent issued one month notice before termination of the workman and gave clear direction that before the date of the expiry of the notice, the workman should collect retrenchment compensation and other dues from the office but the workman failed to do so. Thereafter the retrenchment compensation and other dues were despatched through money-order which were received by the workman.

In these circumstances, the termination of workman in question is just and legal.

The termination has been challenged by the workman on the sole ground that respondent shall have transferred the workman in some other Division but the answer of the respondent is that workman was as a daily wager on daily wages, so seniority of such daily wager is on division level basis and not in the H.S.E.B. as a whole. It was also urged that here was not policy of the board that if there is paucity of work and material in a particular Division and its daily wagers are going to be retrenched in those circumstances they should be transferred to some other division. It was the duty of the workman to have produced a copy of resolution of the board, if a policy of transfer of such types, i.e., from one Division to Another Division existed in the respondent by but the workman failed to produce a copy of resolution of the respondent in this context. In those circumstances the termination of the workman in question is just and legal. If the work existed or created in the Department in those circumstances the workman shall have a preferential right to re-employment against that job, so this issue is decided, in favour of, management against the workman.

**Issue No. 2 :**

The workman has sued H.S.E.B. through its Secretary when the Board itself should have been sued in its own name, so in those circumstances the demand notice and reference are bad for non-suing the Haryana State Electricity Board properly. This issue is also decided, in favour of, management against the workman.

**Issue No. 3 :**

The workman has no cause of action because the respondent-management has terminated services of workman in accordance with the provisions of section 25 (F) of Industrial Disputes Act, 1947,

## Issue No. 4 :

For the foregoing reasons on the basis of my issuewise findings, I hold that termination of workman is just and correct because his termination resulted due to paucity of work and material in the respondent, if there will be new work in the Division the workman shall have a preferential right to re-employment against that job. I pass award regarding the dispute in hand accordingly.

V.P. CHAUDHARY,

Presiding Officer,  
Labour Court, Ambala.

Dated, the 20th February, 1987.

Endst. No. 382, dated the 20th February, 1987.

Forwarded (four copies) to the Financial Commissioner and Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of Industrial Disputes Act, 1947.

V.P. CHAUDHARY,

Presiding Officer,  
Labour Court, Ambala.

No. 9/1/87-6Lab./2562.—In pursuance of the provision of Section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Labour Court, Ambala in respect of the dispute between the workman and the Management of M/s. (i) Secretary, Haryana State Electricity Board, Chandigarh. (ii) Executive Engineer, City Division, H.S.E.B., Gohana Road, Panipat :—

IN THE COURT OF SHRI V.P. CHAUDHARY, PRESIDING OFFICER, LABOUR COURT, AMBALA

Reference No. 66 of 1985

SHRI VED SINGH C/O BHARAT MAZDOOR SANGH G.T. ROAD, PANIPAT, AND THE MANAGEMENT OF THE MESSRS SECRETARY, HARYANA STATE ELECTRICITY BOARD, CHANDIGARH. (II) EXECUTIVE ENGINEER, CITY DIVISION, H. S. E. B., GOHANA ROAD, PANIPAT

Present:—

Ch. Karan Singh for workman.  
Shri Narinder Paul Singh for respondent.

### AWARD

The Hon'ble Governor of Haryana in the exercise of its powers conferred,—vide clause (c) of subsection (i) of section 10 of Industrial Disputes Act, 1947 referred dispute between Shri Ved Singh and Messrs H.S.E.B. etc. to this court. The terms of the reference are as under :

"Whether termination of services of Shri Ved Singh is just and correct, if not, to what relief is he entitled?"

Workman through his statement of claim alleged that he remained in the service of respondent-management more than 240 days. Respondent-management served notice dated 1st August, 1983 for terminating the services of the workman up to 1st September, 1983 and directed the workman to collect the retrenchment compensation on 5th September, 1983 from the respondent-management. It was further alleged that this notice was served by the respondent-management with the intention to save itself from the provisions of section 25 (F). In fact, respondent-management did not like to retain the workman in its job. Had the respondent-management would have been fair; in those circumstances the services of workman must have been placed at the disposal of some other division. So it was prayed that the termination of services of the workman is violative to the general policy of the board. So workman is entitled to reinstatement with continuity in service and with full back wages.

Respondent-management contested the dispute and contended that the reference is bad for non-joinder of necessary parties. Workman has no cause of action. Termination of services of the workman is just and proper because there was a paucity of work and material with the respondent-management. So it issued one month notice before terminating the services of workman. Seniority list was displayed on the notice-board. Workman was asked to collect the retrenchment compensation and other dues before the

date of expiry of notice period. When the workman did not appear to collect the retrenchment compensation and other dues those were despatched to workman through money-orders at his home address, which have been received by him. No junior of the workman was left un-retrenched nor any person has been joined in place of the workman. Seniority list of the daily wages worker is on division level basis and as such the daily wages worker can not be transferred from one Division to another Division since the petitioner workman was daily wages worker as such there was no question of transfer of workman in some other Division.

On the pleadings of the parties the following issues were framed for the just decision of this dispute.—

**Issues :**

1. Whether the impugned termination order is just, if not, its effect ? OPM
2. Whether the reference is bad for non-joinder of necessary parties ? OPM
3. Whether the applicant has no cause of action, if so, its effect ? OPM
4. Relief.

I have heard Shri Karan Singh for workman and Shri Narinder Paul Singh for respondent-management and have perused the oral and documentary evidence placed on the file. My issuewise findings are as under :—

**Issue No. 1 :**

Regarding this issue I would like to hold on the basis of evidence of the parties that there was an paucity of work in the respondent-management due to that fact respondent issued one month notice before termination of the workman and gave clear direction that before the date of the expiry of the notice the workman should collect retrenchment compensation and other dues from the office but the workman failed to do so. Thereafter the retrenchment compensation and other dues were despatched through money-orders which were received by the workman.

In these circumstances the termination of workman in question is just and legal.

The termination has been challenged by the workman on the sole ground that respondent should have transferred the workman in some other division but the answer of the respondent is that workman was working as daily wager on daily wages, so seniority of such daily wager is on division level basis and not in the H.S.E.S. as a whole. It was also urged that there was no policy of the board that if there is paucity of work and material in a particular Division and its daily wager are going to be retrenched in those circumstances they should be transferred to some other division. It was the duty of the workman to have produced any copy of resolution of the board if any policy of transfer of such types i.e. from one Division to another Division existed in the respondent but the workman failed to produce any copy of resolution of the respondent in this context. In those circumstances termination of the workman,—*vide* the order in question is just and legal. If the work existed or created in the Department in those circumstances the workman shall have a preferential right to re-employment against that job, so this issue is decided in favour of management and against the workman.

**Issue No. 2 :**

The workman has sued H.S.E.B. through its Secretary when the Board itself should have been sued in its own name, so in those circumstances the demand notice and reference are bad for non-suing the Haryana State Electricity Board properly. This issue is also decided, in favour of management and against the workman.

**Issue No. 3 :**

The workman has no cause of action because the respondent-management has terminated services of workman in accordance with the provisions of section 25 (F) of Industrial Disputes Act, 1947.

**Issue No. 4 :**

For the foregoing reasons on the basis of my issue wise findings I hold that termination of workman is just and correct because his termination resulted because of paucity of work in the respondent if there will be new work in the Division the workman shall have an preferential right to re-employment, against that job. I pass award regarding the dispute in hand accordingly.

V. P. CHAUDHARY,  
Presiding Officer,  
Labour Court, Ambala.

Dated the 20 February, 1987.

Endorsement No. 380, dated the 20th February, 1987.

Forwarded (four copies) to the Financial Commissioner and Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

V. P. CHAUDHARY.

Presiding Officer  
Labour Court, Ambala.

No. 9/1/87-6Lab./2563.—In pursuance of the provisions of Section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Labour Court, Ambala in respect of the dispute between the Workman and the Management of (i) Secretary, Haryana State Electricity Board, Chandigarh, (ii) Executive Engineer City Division, H.S.E.B., Gohana Road, Panipat.

IN THE COURT OF SHRI V.P. CHAUDHARY, PRESIDING OFFICER, LABOUR COURT, AMBALA

Reference No. 62 of 1985

SHRI JAI BHAGWAN C/O BHARAT MAJDOOR SANGH, G.T. ROAD, PANIPAT AND THE MANAGEMENT OF THE SECRETARY, HARYANA STATE ELECTRICITY BOARD, CHANDIGARH; (II) EXECUTIVE ENGINEER, CITY DIVISION, H.S.E.B., GOHANA PANIPAT.

Present :

Ch. Karan Singh for the workman.  
Shri Narinder Paul Singh for the respondent.

#### AWARD

The Hon'ble Governor of Haryana in the exercise of its powers conferred,—vide clause (C) of sub-section (i) of Section 10 of Industrial Disputes Act, 1947 referred dispute between Shri Jai Bhagwan and Messrs H.S.E.B. to this Court. The terms of the reference are as under :—

“Whether termination of services of Shri Jai Bhagwan is just and correct ? If not, to what relief is he entitled ?”

Workman through his statement of claim alleged that he remained in the service of respondent-management more than 240 days. Respondent-management served notice, dated 1st August, 1983 for terminating the services of the workman up to 1st September, 1983 and directed the workman to collect the retrenchment compensation on 5th September, 1983 from the respondent-management. It was further alleged that this notice was served by the respondent-management with the intention to save himself from the provisions of section 25 (F). In fact respondent-management did not like to retain the workman in its job. Had the respondent-management would have been fair; in those circumstances the services of workman must have been placed at the disposal of some other division. So it was prayed that the termination of services of the workman is violative to the general policy of the board. So workman is entitled to reinstatement with continuity in service and with full back wages.

Respondent-management contested the dispute and contended that the reference is bad for non-joinder of necessary parties. Workman has no cause of action. Termination of services of the workman is just and proper because there was paucity of work and material with the respondent-management. So it issued one month notice before terminating the services of the workman. Seniority list was displayed on the notice board. Workman was asked to collect the retrenchment compensation and other dues before the date of expiry of notice period. When the workman did not appear to collect the retrenchment compensation and other dues those were despatched to workman through money-orders at his home address, which have been received by him. No junior of the workman was left un-retrenched nor any person has been joined in place of the workman. Seniority list of the daily wages worker is on division level basis and as such the daily wages worker can not be transferred from one Division to another Division since the petitioner workman was daily wages worker, as such there was no question of transfer of workman in some other division.

On the pleadings of the parties the following issues were framed :—

Issues :

1. Whether the impugned termination order is just ? If not its effect ? OPM

2. Whether the reference is bad for non-joinder of necessary parties ? OPM
3. Whether applicant has no cause of action, if so, its effect ? OPM
4. Relief.

I have heard Shri Karan Singh for workman and Shri Narinder Paul Singh for respondent-management and have perused the oral and documentary evidence placed on the file. My issue-wise findings are as under :—

**Issue No. 1 :**

Regarding this issue I would like to hold on the basis of evidence of the parties that there was a paucity of work in the respondent management due to that fact respondent issued one month notice before termination of the workman and gave clear direction that before the date of the expiry of the notice the workman should collect retrenchment compensation and other dues from the office but the workman failed to do so. Thereafter, the retrenchment compensation and other dues were despatched through money-order which were received by the workman.

In these circumstances, the termination of workman in question, is just and legal.

The termination has been challenged by the workman on the sole ground that respondent should have transferred the workman in some other division but the answer of the respondent is that workman was working as a daily wager on daily wages, so seniority of such daily wager is on division level basis and not in the H.S.E.B. as a whole. It was also urged that there was no policy of the Board that if there is paucity of work and material in a particular Division and its daily wager are going to be retrenched in those circumstances they should be transferred to some other division. It was the duty of the workman to have produced any copy of resolution of the board if any policy of transfer of such types, i.e. from one Division to another Division existed in the respondent but the workman failed to produce any copy of resolution of the respondent in this context. In those circumstances the termination of the workman in question is just and legal. If the work existed or created in the department in those circumstances the workman shall have a preferential right to re-employment against that job, so this issue is decided, in favour of, management and against the workman.

**Issue No. 2 :**

The workman has issued H.S.E.B. through its Secretary when the Board itself should have been sued in its own name, so in those circumstances the demand notice and reference are bad for non-suing the Haryana State Electricity Board properly. This issue is also decided in favour of management and against the workman.

**Issue No. 3 :**

The workman has no cause of action because the respondent-management has terminated services of workman in accordance with the provisions of section 25 (F) of Industrial Disputes Act, 1947.

**Issue No. 4 :**

For the foregoing reasons on the basis of my issuewise findings, I hold that termination of workman is just and correct because his termination resulted because of paucity of work in the respondent if there will be new work in the Division the workman shall have a preferential right to re-employment against that job. I pass award regarding the dispute in hand accordingly.

V. P. CHAUDHARY

Presiding Officer,  
Labour Court, Ambala.

Dated the 20th February, 1987

Endst. No. 379, dated the 20th February, 1987.

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V. P. CHAUDHARY,  
Presiding Officer,  
Labour Court, Ambala.